

REMARKS

In view of the above amendments and the following remarks, reconsideration and further examination are respectfully requested.

Claim 26-27 have been canceled without prejudice. Claims 24, and 29 have been amended, and no claims have been added. Consequently, claims 24, 25, and 28-40 are currently pending and under consideration.

Allowed Claims

Initially, the applicants wish to thank the Examiner for allowing independent claim 34 and its dependent claims in item 9 of the Office Action.

Independent Claim 24

Independent claim 24 has been amended to incorporate the features of dependent claim 27 and intervening claim 26. Consequently, claims 26 and 27 have been canceled. In item 7 of the Office Action, claim 27 was “rejected under 35 U.S.C. 103(a) as being unpatentable over Effenhauser (6,572,566) as applied to claim 26 above, and further in view of Yassinzadeh et al (5,700,695).” In item 4 of the Office Action, Effenhauser was cited as being prior art under 35 U.S.C. §102(e). The Applicants wish to bring to the Examiner’s attention that the Applicant’s assigned and/or were under the obligation to assign the present application to the same owner as Effenhauser. The present application is assigned to Roche Diagnostics Operations, Inc. (see, Reels/Frames- 012536/0097, 012549/0850, and 015215/0061). Likewise, Effenhauser is assigned to Roche Diagnostics Operations, Inc. (see, Reels/Frames- 011965/0596, 011965/0589, and 015215/0061). In accordance with 35 U.S.C. §103(c), Effenhauser cannot be used as a basis for an obviousness rejection (see, MPEP §2146). Therefore, claim 24 and its dependent claims are allowable over the references of record.

Independent Claim 29

Claim 29 has been rewritten into independent form. In item 6, claim 29 was “rejected under 35 U.S.C. 103(a) as being unpatentable over Perez et al (2002/0103499 A1) as applied to claim 24 above, and further in view of Eriksen (2,359,550).” In item 3 of the Office Action, Perez was cited as being prior art under 35 U.S.C. §102(e). The Applicants wish to bring to the

Examiner's attention that the Applicant's assigned and/or were under the obligation to assign the present application to the same owner as Perez. As mentioned above, the present application is assigned to Roche Diagnostics Operations, Inc. Likewise, Perez is assigned to Roche Diagnostics Operations, Inc. (see, Reels/Frames- 012768/0190 and 015215/0061). In accordance with 35 U.S.C. §103(c), Perez cannot be used as a basis for an obviousness rejection (see, MPEP §2146). Therefore, claim 29 is allowable over the references of record.

Conclusion

It should be understood that the above remarks are not intended to provide an exhaustive basis for patentability or concede the basis for the rejections in the Office Action, but are simply provided to overcome the rejections made in the Office Action in the most expedient fashion.

In view of the above amendments and remarks, it is respectfully submitted that the present application is in condition for allowance and an early notice of allowance is earnestly solicited. If after reviewing this amendment the Examiner feels that any issues remain which must be resolved before the application can be passed to issue, the Examiner is invited to contact the undersigned representative by telephone to resolve such issues.

Respectfully submitted,

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